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Defendants.

OPINION AND ORDER

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Under 28 U.S.C. § 1391(b), the general venue provision for “arising under” claims, provides that:

A civil action wherein jurisdiction is not founded solely on diversity of citizenship may, except as otherwise provided by law, be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.

The complaint is brought against TCCHC and various individuals employed at TCCHC. TCCHC is located at 1249 Fifth Avenue, New York, New York 10029, (Compl. at 2), in New York County, and all of the alleged violations of plaintiffs’ civil rights occurred at TCCHC. Although it appears that the individual defendants are employees of TCCHC, the complaint is silent as to the addresses of the individual defendants. Moreover, plaintiffs have failed to identify residences of the individual defendants pursuant to the court’s order to show cause. Accordingly, the only proper venue for this matter is the Southern District of New York where a “substantial part of the events or omissions giving rise to the claim occurred.” See 28 U.S.C. § 1391(b)(2).

“The district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). The determination to transfer, rather than dismiss, a case pursuant to § 1406(a) lies within the sound discretion of the district court judge. See Minnette v. Time Warner, 997 F.2d 1023, 1026 (2d Cir.1993). “A transfer may be made under 28 U.S.C. § 1404(a) or § 1406(a) upon motion by either party or by the court sua sponte.” Unlimited Care, Inc. v. Visiting Nurse Ass’n of E. Mass., Inc., 42 F. Supp.

2d 327, 333 (S.D.N.Y. 1999). The court finds, in its discretion, that transfer would be in the interest of justice and, therefore, this matter will be transferred to the Southern District of New York.

It is hereby ordered that this action be transferred to the United States District Court for the Southern District of New York.

SO ORDERED.

Allyne R. Ross
United States District Judge

Dated: Brooklyn, New York
July 13, 2006

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